

**Assembly Bill 1790 (Wiggins) Chapter 272**  
***Grapevines – Pierce’s Disease and Phylloxera***

*Effective January 1, 2001. Amends Section 53 of the Revenue and Taxation Code.*

**This measure, with respect to the base year value transfer provisions for replanted grapevines due to Pierce’s Disease or phylloxera, (1) deletes the requirement that the replacement grapevines be of the same type and (2) modifies the requirement that the replacement grapevines be planted at a similar density to allow a proportionate base year value transfer if the vines are planted at a greater density.**

*Sponsor: Assembly Member Patricia Wiggins*

*Law Prior To Amendment:*

Section 53 of the Revenue and Taxation Code makes available property tax relief for grapevines planted to replace grapevines removed because of phylloxera and/or Pierce’s Disease. The tax relief is limited to vineyards located in counties that have adopted an ordinance making the provisions of Section 53 applicable. The ordinance can provide relief for one or both conditions. The relief is provided by means of a “base year transfer.” The factored base year value of the removed grapevines under Proposition 13 limitations is generally less than the current market of the newly planted grapevines. These provisions permit the replacement grapevines to assume the previous assessed value of the removed grapevines.

Existing law places conditions on both the removed grapevines and the replacement grapevines, as follows:

The removed grapevines must be:

- removed solely as a result of phylloxera infestation and/or Pierce’s Disease, as certified by the county agricultural commissioner, and
- less than 15 years of age.

The replacement grapevines must be:

- “substantially equivalent” to the removed grapevines, defined as grapevines of a similar type that are planted at a similar density, and
- planted on the same parcel.

Existing law provides that all newly planted grapevines are exempt for the first three years after the season in which they are first planted. Thus, in practice, the base year

value transfer would not take place until three years later (i.e. after the exemption period for new plantings).

*In General:*

Agricultural property is subject to the assessment rules of Proposition 13, in that it retains its base year value until new construction or a change in ownership takes place. Increases in assessment are limited to no more than two percent a year. At the time of a reassessable event, a new base year value is established for the entire property if there is a change in ownership, or for the new property in the case of new construction.

Generally, when a portion of a vineyard is pulled, the base year value of those grapevines is removed from the assessed value of that property as of the following lien date. When the grapevines are replanted, they receive a “new” three year exemption period. In the fourth year after replanting they will become taxable at the current market value as of the lien date.

Agricultural property may be preserved as such under the Williamson Act (California Land Conservation Act of 1965), whereby a landowner enters into a contract with the local government to maintain the agricultural use in exchange for valuation and taxation of the land as agricultural property. Property subject to a Williamson Act contract is generally valued based on its income stream, and is revalued annually. Each year, the property will be assessed at the lowest of the factored base year value, the Williamson Act value, or the current fair market value.

**Similar Base Year Value Transfer Provisions.** California property tax law provides for various situations where a Proposition 13 base year value is either retained or transferred to another property. Briefly, Section 70© of the Revenue and Taxation Code provides that where real property has been damaged or destroyed by a misfortune or calamity, the reconstructed property will maintain the assessed value of the pre-damaged property. Sections 69 and 69.3 provide that where property is destroyed in a Governor-declared disaster, a replacement property may be acquired and the replacement property will retain the Proposition 13 base year value of the damaged or destroyed property. Section 63.1 permits property to transfer between parents and children while maintaining the property’s Proposition 13 base year value. Section 69.4 provides base year value transfers for property that suffers environmental contamination that makes the property uninhabitable. Finally, Section 69.5 permits persons over the age of 55 years or disabled persons to transfer their Proposition 13 base year value to another property. The base year value transfers listed here have been specifically provided for by constitutional amendments approved by the voters. The base year value transfer provisions provided by Section 53 have not been similarly made by constitutional authorization. The statutory provisions of Section 53 may raise issues that it has the effect of exempting real property from taxation without the benefit of constitutional authorization.

*Background:*

Chapter 413 of the Statutes of 1992 (AB 3303, Hansen) added subdivision (b) to Section 53 to provide for the special assessment procedures for grapevines infested by phylloxera. Chapter 607 of the Statutes of 1997 (AB 122, V. Brown) extended the provisions for Pierce's Disease.

*Comments:*

1. **Purpose.** To eliminate the requirement that replacement grapevines be of the same type. The number of grapevines affected with Pierce's Disease is on the rise. Since there is no remedy for infected vines, they must be pulled. Replanting the same *type* of grapevine, may be impractical because that type would also be susceptible to Pierce's Disease. This bill would ensure that growers who replant a different type of vine are not ineligible for this property tax relief. The base year value transfer would be available for any replanting of grapevines to grapevines.
2. **Replantings at a Greater Density would no longer Completely Forfeit A Base Year Value Transfer.** As introduced this bill deleted language related to substantial equivalency which included requirements of (1) same type (2) same parcel and (3) similar planting density. The July 5 amendment, restored and modified language relating to planting density. This amendment provides that, if grapevines are replanted at a greater density, a base year value transfer may be made, but limits the base year value transfer to an equivalent number of replacement grapevines. That portion in excess of a substantially equivalent amount would be assessed at current market value. The March 20 amendment restored language that specifically states that replacement vines must be planted on the same parcel to address the concerns of some county assessors over the deletion of this requirement.
3. **Benefits of a Base Year Value Transfer.** A base year value transfer permits the property owner to maintain the assessed value of the old vineyard after the new vineyard is replanted. Without the base year value transfer, the replanting would trigger a reassessment of the vineyard to reflect current fair market value. (Only the grapevines and improvements would be reassessed as "new construction", the underlying land retains its base year value.)
4. **Replanting Provides an Opportunity to Modify the Vineyard to Increase the Value and Productivity of the Property.** A replanted vineyard may be more economically productive, and thereby more valuable, either by planting a different variety that commands a higher price per ton, or a variety that produces greater tons per acre, or both. In addition, changing the spacing or training system could improve the production efficiency and grape quality.

5. **Vineyards May be Pulled for a Variety of Economic Based Reasons.** To ensure that tax relief was limited to property owners whose vineyards became infected, the original legislation, which was limited to phylloxera, was amended to specify that the grapevines must have been removed solely as a result of phylloxera. (Vineyards infected with phylloxera may still be economically productive for a period of time.) Further, the county agricultural commissioner was charged with the responsibility of certifying in writing that the grapevines were pulled solely because of the infestation or disease for purposes of receiving this tax benefit. Thus, a system of governmental oversight is in place to ensure that the benefits are not extended to grapevines that are pulled for other economic reasons.
6. **Optional County Participation.** The special assessment provisions authorized by this measure would be extended only to property located in a county where the board of supervisors adopts an ordinance making these provisions applicable. The Board is aware of four counties that have chosen to participate in this program for phylloxera: Napa, San Joaquin, Lake, and Riverside. For Pierce's Disease, we are aware of only one county with an ordinance, Riverside.
7. **Generally Base Year Value Transfers Do Not Provide Relief to Properties in the Williamson Act.** Property subject to a Williamson Act contract is assessed at the lowest of three values: the factored base year value, the Williamson Act value, or the current fair market value. This measure would not affect the assessed value of those vineyards affected by Pierce's Disease or phylloxera where the Williamson Act value is still the lowest of the three determined values. However, in those vineyards, the assessed value would, generally, be reduced the following year. This is because the Williamson Act value is determined according to a capitalization of income method. Since a nonproducing or pulled grapevine would produce little or no income, this loss in productive capacity would result in a reduced assessment of the property in the subsequent lien date (assuming that all other valuation factors remain constant from the previous year).